## REMARKS

Applicants respectfully request consideration of the subject application as amended herein. This Amendment is submitted in response to the Final Office Action mailed February 7, 2006. Claims 1-32 are rejected.

In this Amendment, claims 1, 3, 4, 7, 9, 11, 12, 15, 17, 19, 20, 23, 25, 27, 28, and 31 have been amended. New claim 33 has been added. It is respectfully submitted that no new matter has been added. Applicants reserve all rights with respect to the applicability of the doctrine of equivalents.

### Information Disclosure Statement

Applicants thank the Examiner for considering the IDS filed on 1/10/06. Applicants are resubmitting a legible copy of each non-patent literature publication submitted therewith.

### Claim Rejections

The Examiner has rejected claims 1, 2, 7-10, 15-18, 23-26, 31 and 32 under 35 U.S.C. §102(e) as being anticipated by Fan, et al., (USPN: 6,408,005, hereinafter "Fan"). The Examiner has further rejected claims 3-6, 11-14, 19-22 and 27-30 under 35 U.S.C. §103(a) as being unpatentable by Fan.

Amended claim 1 reads as follows:

> A method comprising:
> calculating a Theoretical Departure Time (TDT) parameter associated with a buffer based on an Inter Cell Gap (ICG) parameter, the buffer containing a plurality of data units;
> determining a position of said buffer on a time scale based upon the Theoretical Departure Time parameter associated with said buffer and a current time counter value; and

modifying a signal prompting selection of said buffer for release of at least one data unit of said plurality of data units based on said position on said time scale.

(Claim 1, as amended) (emphasis added).

In contrast, Fan discloses scheduling cells for service in an ATM switch by taking into account a minimum guaranteed rate and a portion of the unused bandwidth. (Fan col. 5, lines 38-45). Fan discloses accounting for timing of cell transmission using the following mechanism:

> At any given current time, CT, any cell having a timestamp which equals the current time is eligible for service. Therefore, there is no need for constant ordering of the cells according to timestamps.

(Fan col. 6, lines 32-35). Fan discloses that the timestamp associated with a buffer is calculated as follows:

> Two distinct timestamp computation formulas, are provided depending on whether a queue is to be scheduled or rescheduled. The timestamp computations ensure that each stream is shaped to the appropriate rate, as determined by the DRC scheme.... The basic formula for computing the new timestamp for scheduling queue i is given as follows:
> $TS_i = \max \{CT, TS_i + 1/ R_i(n)\}$, where CT is the current time, ... and $R_i(n)$ is the dynamic rate for queue i at time n.... In this [rescheduling] case, the timestamp computation for rescheduling queue i is:
> $TS_i = TS_i + 1/ R_i(n)$.

(Fan col. 15, line 65 to col. 16, line 25) (emphasis added).

Thus, Fan discloses that the timestamp associated with a buffer is calculated based on the current time and dynamic rate for the queue. Fan does not teach or suggest calculating a TDT parameter associated with a buffer based on an ICG parameter, as claimed. Therefore, Fan does not anticipate or render obvious independent claim 1 and associated dependent claims 2-8, which include each and every limitation of claim 1.

Amended claim 9 reads as follows:

A system comprising:
a memory module for storing a plurality of buffers, each buffer containing a plurality of data units; and
a scheduler module for:
<u>calculating a Theoretical Departure Time (TDT) parameter associated with a buffer based on an Inter Cell Gap (ICG) parameter,</u>
determining a position of the_buffer on a time scale based upon the Theoretical Departure Time parameter associated with said buffer and a current time counter value, and
for modifying a signal prompting selection of said buffer for release of at least one data unit of said plurality of data units based on said position on said time scale.

(Claim 9, as amended) (emphasis added).

As discussed, Fan discloses that the timestamp associated with a buffer is calculated based on the current time and dynamic rate for the queue. Fan does not teach or suggest calculating a TDT parameter associated with a buffer based on an ICG parameter, as claimed. Therefore, Fan does not anticipate or render obvious independent claim 9 and associated dependent claims 10-16, which include each and every limitation of claim 9.

Amended claim 17 reads as follows:

A system comprising:
means for <u>calculating a Theoretical Departure Time (TDT) parameter associated with a buffer based on an Inter Cell Gap (ICG) parameter, the buffer containing a plurality of data units;</u>
means for determining a position of said buffer on a time scale based upon <u>the</u> Theoretical Departure Time parameter associated with said buffer and a current time counter value; and
means for modifying a signal prompting selection of said buffer for release of at least one data unit of said plurality of data units based on said position on said time scale.

(Claim 17, as amended) (emphasis added).

As discussed, Fan discloses that the timestamp associated with a buffer is calculated based on the current time and dynamic rate for the queue. Fan does not teach or suggest calculating a TDT parameter associated with a buffer based on an

ICG parameter, as claimed. Therefore, Fan does not anticipate or render obvious independent claim 17 and associated dependent claims 18-24, which include each and every limitation of claim 17.

Amended claim 25 reads as follows:

> A computer readable medium containing executable instructions, which, when executed in a processing system, cause said processing system to perform a method comprising:
> calculating a Theoretical Departure Time (TDT) parameter associated with a buffer based on an Inter Cell Gap (ICG) parameter, the buffer containing a plurality of data units;
> determining a position of said buffer on a time scale based upon the Theoretical Departure Time parameter associated with said buffer and a current time counter value; and
> modifying a signal prompting selection of said buffer for release of at least one data unit of said plurality of data units based on said position on said time scale.
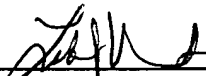
(Claim 25, as amended) (emphasis added).

As discussed, Fan discloses that the timestamp associated with a buffer is calculated based on the current time and dynamic rate for the queue. Fan does not teach or suggest calculating a TDT parameter associated with a buffer based on an ICG parameter, as claimed. Therefore, Fan does not anticipate or render obvious independent claim 25 and associated dependent claims 26-32, which include each and every limitation of claim 25.

Applicants respectfully submit that the rejections have been overcome. Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

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Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
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Dated: June ___7___, 2006

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